

AMENDED IN ASSEMBLY SEPTEMBER 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1592

**Introduced by Committee on Veterans Affairs (Parra (Chair),
Cohn, Kehoe, Matthews, Mullin, Nakano, Salinas, and Wiggins)**

February 21, 2003

An act to amend ~~Section 890~~ *Sections 999, 999.5, 999.7, 999.11, and 999.12* of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1592, as amended, Committee on Veterans Affairs. ~~Veteran~~
California Disabled Veteran Business Enterprise Program.

Under existing law, state agencies and all other state entities contracting for materials, supplies, equipment, alteration, repair, or improvement are required to have at least 3% participation goals for disabled veteran business enterprises. Existing law requires the Department of Veterans Affairs and the awarding departments to appoint a Disabled Veteran Business Enterprise Program Advocate to assist in meeting the participation goals.

The bill would make specify that the Department of General Services is the administering agency of the California Disabled Veteran Business Enterprise Program, would specify the duties of the Department of General Services in meeting that requirement, would set standards for meeting the program's participation goals, and would impose reporting contracts on state departments that participate in the program.

~~Existing law defines "veteran" for the purposes of the various programs bestowing benefits upon veterans, including, but not limited to, educational assistance for dependents of veterans, provisions for~~

~~burial of veterans, the veterans farm and home purchase program, and disabled veterans participation goals for professional bond services and state contracts.~~

~~This bill would make technical, nonsubstantive changes to that definition.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 890 of the Military and Veterans Code~~
2 ~~SECTION 1. Section 999 of the Military and Veterans Code is~~
3 ~~amended to read:~~

4 999. ~~As This article may be cited as the California Disabled~~
5 ~~Veteran Business Enterprise Program. As used in this article, the~~
6 ~~following definitions apply:~~

7 (a) “Administering agency” means the Treasurer in the case of
8 contracts for professional bond services, and the Department of
9 General Services’ Office of Small Business Certification and
10 Resources, formerly known as the Office of Small and Minority
11 Business, in the case of contracts governed by Section 999.2.

12 (b) “Awarding department” means any state agency,
13 department, governmental entity, or other officer or entity
14 empowered by law to issue bonds or enter into contracts on behalf
15 of the State of California.

16 (c) “Bonds” means bonds, notes, warrants, certificates of
17 participation, and other evidences of indebtedness issued by or on
18 behalf of the State of California.

19 (d) “Contract” includes any agreement or joint agreement to
20 provide professional bond services to the State of California or an
21 awarding department. “Contract” also includes any agreement or
22 joint development agreement to provide labor, services, material,
23 supplies, or equipment in the performance of a contract, franchise,
24 concession, or lease granted, let, or awarded for and on behalf of
25 the State of California.

26 (e) “Contractor” means any person or persons, regardless of
27 race, color, creed, national origin, ancestry, sex, marital status,
28 disability, religious or political affiliation, or age, or any sole
29 proprietorship, firm, partnership, joint venture, corporation, or
30 combination thereof who submits a bid and enters into a contract



with a representative of a state agency, department, governmental entity, or other officer empowered by law to enter into contracts on behalf of the State of California. “Contractor” includes any provider of professional bond services who enters into a contract with an awarding department.

(f) “Disabled veteran” means a veteran of the military, naval, or air service of the United States, including, but not limited to, the Philippine Commonwealth Army, the Regular Scouts (“Old Scouts”), and the Special Philippine Scouts (“New Scouts”), with a service-connected disability who is a resident of the State of California.

(g) (1) “Disabled veteran business enterprise” means a business concern certified by the administering agency as meeting all of the following requirements:

(A) It is a sole proprietorship at least 51 percent owned by one or more disabled veterans or, in the case of a publicly owned business, at least 51 percent of its stock is owned by one or more disabled veterans; a subsidiary ~~which~~ *that* is wholly owned by a parent corporation, but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture’s management and control and earnings are held by one or more disabled veterans.

(B) The management and control of the daily business operations are by one or more disabled veterans *who are rated by the United States Department of Veterans Affairs as being at least 10 percent disabled*. The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business concern.

(C) It is a sole proprietorship, corporation, or partnership with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.

(2) Notwithstanding paragraph (1), after the death or the certification of a permanent medical disability of a disabled veteran who is a majority owner of a business concern that qualified as a disabled veteran business enterprise prior to that death or certification of a permanent medical disability, and solely for purposes of any contract entered into before that death or certification, that business concern shall be deemed to be a

1 disabled veteran business enterprise for a period not to exceed
2 three years after the date of that death or certification of a
3 permanent medical disability, if the business concern is inherited
4 or controlled by the spouse or child of that majority owner, or by
5 both of those persons.

6 (h) “Foreign corporation,” “foreign firm,” and
7 “foreign-based business” means a business entity that is
8 incorporated or has its principal headquarters located outside the
9 United States of America.

10 (i) “Goal” means a numerically expressed objective that
11 awarding departments and contractors are required to make efforts
12 to achieve.

13 (j) “Management and control” means effective and
14 demonstrable management of the business entity.

15 (k) “Professional bond services” include services as financial
16 advisers, bond counsel, underwriters in negotiated transactions,
17 underwriter’s counsel, financial printers, feasibility consultants,
18 and other professional services related to the issuance and sale of
19 bonds.

20 *SEC. 2. Section 999.5 of the Military and Veterans Code is*
21 *amended to read:*

22 999.5. (a) *The administering agency for the California*
23 *Disabled Veteran Business Enterprise Program shall be the*
24 *Department of General Services. The Department of General*
25 *Services shall consult with the State Disabled Veteran Business*
26 *Enterprise Program Advocate, appointed by the Department of*
27 *Veterans Affairs pursuant to Section 999.11, on all matters relating*
28 *to the California Disabled Veteran Business Enterprise Program.*
29 *The administering agency shall establish policies, rules, and*
30 *regulations that all awarding agencies shall follow in complying*
31 *with the California Disabled Veteran Business Enterprise*
32 *Program. The Department of Veterans Affairs shall establish a*
33 *method of monitoring adherence to the goal goals specified in*
34 *Section 999.1, including requiring a followup report from all*
35 *contractors upon the completion of any sale of bonds Sections*
36 *999.1 and 999.2.*

37 ~~(b) The awarding department shall establish a method of~~
38 ~~monitoring adherence to the goals specified in Section 999.2~~
39 ~~administering agency shall have the authority to require awarding~~
40 ~~departments to withhold a portion of the payments to contractors~~

1 *if the State Disabled Veteran Business Enterprise Program*
 2 *Advocate for the awarding department determines that a*
 3 *contractor has failed to use disabled veteran business enterprises*
 4 *to the extent specified in the contract.*

5 (c) *The administering agency shall promote the California*
 6 *Disabled Veteran Business Enterprise Program to the fullest extent*
 7 *possible, including, but not limited to, aggressively exploring*
 8 *outreach opportunities with the United States Department of*
 9 *Veterans Affairs, and organizations such as the American Legion,*
 10 *Disabled American Veterans, Veterans of Foreign Wars, and*
 11 *Vietnam Veterans of America. It shall also cultivate a clear*
 12 *working relationship with county veteran service officers and*
 13 *recognized in-state organizations comprised of disabled veteran*
 14 *business enterprises including the California Disabled Veteran*
 15 *Business Enterprise Program Alliance. The administering agency*
 16 *shall maintain complete records of its outreach efforts and set up*
 17 *a system to track its effectiveness. This system shall include*
 18 *regular, periodic surveys of newly certified disabled veteran*
 19 *business enterprises to determine how they learned of the program,*
 20 *why they became certified, and what their experience with*
 21 *awarding departments has been.*

22 (d) *The administering agency shall adopt rules and regulations,*
 23 *including standards for good faith efforts for the purpose of*
 24 *implementing this section. The standards shall require bidders on*
 25 *state contracts to contact the administering agency for a list of*
 26 *certified disabled veteran business enterprises that are maintained*
 27 *by the Office of Small Business Certification and Resources.*
 28 *Emergency regulations consistent with this section may be*
 29 *adopted.*

30 *SEC. 3. Section 999.7 of the Military and Veterans Code is*
 31 *amended to read:*

32 999.7. (a) *Notwithstanding Section 7550.5 of the*
 33 *Government Code, on January 1 of each year, the State Disabled*
 34 *Veteran Business Enterprise Program Advocate for each awarding*
 35 *department, appointed in accordance with Section 999.12, shall*
 36 *report deliver to the administering agency to the Governor, the*
 37 *Legislature, the Office of Small Business Certification and*
 38 *Resources, and the Department of Veterans Affairs State Disabled*
 39 *Veteran Business Enterprise Program Advocate a report on the*
 40 *level of participation by disabled veteran business enterprises in*

1 contracts identified in this article for the previous fiscal year. If the
2 established goals are not met, the awarding department shall report
3 to the Legislature, the Office of Small Business Certification and
4 Resources, and the Department of Veterans Affairs the reasons for
5 the awarding department's inability to achieve the goals and
6 identify steps it shall take in an effort to achieve the goals.

7 ~~(b)~~ The written report shall include the following information:

8 (1) The total number of contracts and the total number of
9 contract dollars awarded by the department during the reporting
10 period.

11 (2) The total number of contracts and the total number of
12 contract dollars awarded by the department during the reporting
13 year for contracts which exempted certified disabled veteran
14 business enterprise participation.

15 (3) The total of number of contracts and the total number of
16 contract dollars actually awarded by the department to certified
17 disabled veterans business enterprises during the reporting
18 period.

19 (4) The percent of the department's total contract dollars
20 actually awarded to disabled veterans business enterprises during
21 the reporting period.

22 (5) The number of individual certified disabled veteran
23 business enterprises receiving awarded contract dollars and the
24 average amount received during the reporting period.

25 (6) The total of contract dollars awarded by the department
26 during the previous three fiscal years.

27 (7) The total of contract dollars awarded by the department to
28 disabled veteran business enterprises during the previous three
29 fiscal years.

30 (8) The percent of total contract dollars awarded by the
31 department during the previous three fiscal years to certified
32 disabled veterans business enterprises.

33 (b) If the established 3 percent goal for disabled veteran
34 business enterprise participation in state contracts is met by the
35 awarding department during the reporting period, the report shall
36 describe in detail the special steps, if any, that the awarding
37 department took during the reporting period to achieve the 3
38 percent disabled veteran business enterprise participation goal. If
39 the established 3 percent goals for disabled veteran business
40 enterprise participation in state contracts is not met by the

1 *awarding department during the reporting period, the report shall*
2 *describe in detail:*

3 *(1) The reasons for the awarding department's inability to*
4 *achieve the 3 percent goal including the reasons given by chief*
5 *deputy director for waiving disabled veteran business enterprise*
6 *participation on any contracts awarded by the department during*
7 *the reporting period.*

8 *(2) The steps the department will take during the following*
9 *reporting period to achieve the 3 percent goal.*

10 *(3) The estimated date on which the implementation of those*
11 *steps to meet the 3 percent goal shall be completed.*

12 *(c) (1) Notwithstanding Section 7550.5 of the Government*
13 *Code, on April 1 of each year, the administering agency's Office*
14 *of Small Business Certification and Resources shall ~~prepare for~~*
15 *~~deliver to the Governor, the Legislature, and the Department of~~*
16 *~~Veterans Affairs a statewide statistical summary detailing each~~*
17 *~~awarding department's goal achievement and a statewide total of~~*
18 *~~those goals; and the State Disabled Veteran Business Enterprise~~*
19 *~~Program Advocate, and all directors or executive secretaries, as~~*
20 *~~applicable, of all state departments, a report that summarizes the~~*
21 *~~reports specified in subdivision (a).~~*

22 *(2) The report shall be prepared in consultation with the State*
23 *Disabled Veteran Business Enterprise Program Advocate in the*
24 *Department of Veterans Affairs. The report shall have three*
25 *sections, as follows:*

26 *(A) The first section shall list, by state department, the*
27 *awarding departments that have submitted the information*
28 *prescribed in subdivision (a); those state departments that have*
29 *not submitted the information prescribed in subdivision (a); those*
30 *state departments that have completed implementation of their*
31 *plan to improve disabled veteran business enterprise*
32 *participation; and those state departments that have not*
33 *completed implementation of their plan to improve disabled*
34 *veteran business enterprise participation.*

35 *(B) The second section shall detail each awarding*
36 *department's goal achievement and a statewide total of those*
37 *goals. This section shall be formatted to be an aggregation of all*
38 *of the statistical information prepared by the Disabled Veteran*
39 *Business Enterprise Program Advocates for all awarding*
40 *departments as submitted to the Office of Small Business*

1 *Certification and Resources as described in paragraphs (1) to*
2 *(8), inclusive of subdivision (a).*

3 *(C) The third section shall include a summary of the*
4 *information prescribed in paragraphs (1), (2), and (3) of*
5 *subdivision (a), an analysis of that information, and recommended*
6 *specific actions the administering agency can take to require the*
7 *accurate reporting of all awarding departments and to improve*
8 *statewide attainment of the 3 percent disabled veteran business*
9 *enterprise participation goal during the following reporting*
10 *period. These recommendations shall not be limited and may*
11 *include recommendations to provide for negotiated disabled*
12 *veteran business enterprise participation goal attainment for*
13 *specified awarding departments.*

14 *SEC. 4. Section 999.11 of the Military and Veterans Code is*
15 *amended to read:*

16 *999.11. The Secretary of the Department of Veterans Affairs*
17 *shall appoint an advocate to the State Disabled Veteran Business*
18 *Enterprise Program Advocate. The State Disabled Veteran*
19 *Business Enterprise Program Advocate shall report directly to the*
20 *secretary and shall do all of the following:*

21 *(a) Oversee, promote, and coordinate efforts to facilitate*
22 *implementation of this article.*

23 *(b) Disseminate information on this article.*

24 *(c) Coordinate reports pursuant to Section 999.7.*

25 *(d) Coordinate with administering agencies and existing and*
26 *potential disabled veteran business enterprises to achieve the goals*
27 *specified in Sections 999.1 and 999.2.*

28 *(e) Coordinate with the ~~disabled veteran business enterprise~~*
29 *~~advocates~~ State Disabled Veteran Business Enterprise Program*
30 *Advocate appointed in all awarding departments pursuant to*
31 *Section 999.12.*

32 *SEC. 5. Section 999.12 of the Military and Veterans Code is*
33 *amended to read:*

34 *999.12. Each awarding department shall appoint an agency*
35 *~~disabled veteran business enterprise advocate.~~ This State Disabled*
36 *Veteran Business Enterprise Program Advocate.*

37 *This person shall be the same individual appointed pursuant to*
38 *Section 14846 of the Government Code. The ~~disabled veteran~~*
39 *~~business enterprise advocate~~ State Disabled Veteran Business*
40 *Enterprise Program Advocate shall do all of the following:*

(a) Assist certified disabled veteran business enterprises in participating in that agency's contracting process.

(b) Assist contract officers in seeking disabled veteran business enterprises to participate in the agency's contract and procurement activities *by performing good faith efforts to recruit disabled veteran business enterprises to offer their services as either a prime contractor or subcontractor on any contract proposed by the awarding department which requires disabled veteran business enterprise participation, and by other feasible means.*

~~(c) Disseminate information to the agency's contract and procurement staff. Meet regularly with the State Disabled Veteran Business Enterprise Advocate and contract and procurement staffs of their departments to disseminate information about the disabled veterans business enterprise program.~~

(d) Serve as an advocate for the disabled veteran business enterprises that are utilized *or are proposed to be utilized* as the agency's contractors or subcontractors *by verifying all California Disabled Veteran Business Enterprise Program information submitted to the awarding department pertaining to bidders' fulfillment of contract requirement for disabled veteran business enterprise participation prior to the award of such contracts, by participating in the department's decisionmaking on the award of contracts which require disabled veteran business enterprise participation, and by monitoring contractors use of disabled veteran business enterprise subcontractors on awarded contracts and recommending to the awarding department's head, the Office of Small Business Certification and Resources in the administering agency, and the State Disabled Veteran Business Enterprise Program Advocate in the Department of Veterans Affairs that payments to contractors be withheld when they fail to use disabled veteran business enterprises to extent specified in their contracts.*

(e) Report to the Office of Small Business Certification and Resources regarding any violation of this article.

~~(f) Coordinate with the state disabled veteran business enterprise advocate and meet, on a regular basis, with the State Disabled Veteran Business Enterprise Program Advocate at the Department of Veterans Affairs in an effort to meet the statewide 3-percent goal provided for in Section 999.2.~~

~~is amended to read:~~

890.—As used in this article:

1 ~~(a) “Veterans” means (1) any person who served in the Army,~~
2 ~~Navy, or Marine Corps of the United States and was killed in action~~
3 ~~or died as a result of war service in the World War since April 6,~~
4 ~~1917; (2) any member of the Army, Navy, Coast Guard or Marine~~
5 ~~Corps of the United States, or any of their auxiliaries, including,~~
6 ~~but not limited to, the Philippine Commonwealth Army, the~~
7 ~~Regular Scouts (“Old Scouts”), and the Special Philippine Scouts~~
8 ~~(“New Scouts”), who was killed in action in World War II on or~~
9 ~~after December 7, 1941, and prior to January 1, 1947, or who died~~
10 ~~at any time as a result of war service during that period; (3) any~~
11 ~~member of the armed forces of the United States who was killed~~
12 ~~in action during any period of hostilities in which the United States~~
13 ~~is engaged, or who died or was totally disabled at any time as a~~
14 ~~result of active service during that period or during the induction~~
15 ~~period; or (4) any person who, at the time of entry into the armed~~
16 ~~forces of the United States was a resident of this state and was~~
17 ~~subsequently declared by the United States government to be~~
18 ~~missing in action, captured in the line of duty by hostile forces, or~~
19 ~~forcibly detained or interned in the line of duty by a foreign~~
20 ~~government or power.~~
21 ~~(b) “Dependent of a veteran” means the natural or adopted~~
22 ~~child of a veteran, or stepchild of a veteran as defined by the United~~
23 ~~States Department of Veterans Affairs for compensation purposes,~~
24 ~~the unmarried surviving spouse of a veteran, or the spouse of a~~
25 ~~totally disabled veteran.~~
26 ~~(c) “Induction period” means (1) the period beginning~~
27 ~~September 16, 1940, and ending December 6, 1941, and the period~~
28 ~~beginning January 1, 1947, and ending June 26, 1950, and (2) the~~
29 ~~period beginning on February 1, 1955, and ending on the day~~
30 ~~before the first day thereafter on which individuals (other than~~
31 ~~individuals liable for induction by reason of a prior deferment) are~~
32 ~~no longer liable for induction for training and service into the~~
33 ~~armed forces under the Universal Military Training and Service~~
34 ~~Act.~~